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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



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GIBSON GUITAR CORP.)
309 Plus Park Blvd.)
Nashville, Tennessee 37217)
Petitioner,)
)
v.)
)
J. D'ADDARIO & CO., INC.)
595 Smith Street)
Farmingdale, New York 11735)
Registrant.)
-----X

12-27-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #76

Cancellation No. 92041175

Trademark Registration No. 2,554,111 for
the mark EXP COATED

United States Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

03 JAN -3 PM 9:30

**J. D'ADDARIO & CO.'S ANSWER TO
GIBSON'S PETITION TO CANCEL**

Registrant, J. D'ADDARIO & CO., INC., by its attorneys, Bodner & O'Rourke, LLP, answers the Petition to Cancel as follows:

1. Gibson owns the trademark EXPLORER in connection with stringed musical instruments. Gibson has used the EXPLORER mark since at least as early as December 31, 1958. Gibson and the consuming public know the EXPLORER guitar as EXP and EX. Consumers use EXP or EX as a short hand designation for the EXPLORER guitar. On price sheets and order forms, GIBSON uses EXP or EX as a designation for the EXPLORER. Therefore, GIBSON owns the rights to the EXP trademark and the EX trademark in connection with stringed instruments.

Answer to Paragraph No. 1

Registrant lacks knowledge or information sufficient to form a belief as to the

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truth of the allegations of Paragraph No. 1 and therefore denies the same.

2. Gibson filed trademark applications seeking to register EXP (U.S. Application Serial No. 76/230,198) and EX (U.S. Application Serial No. 76/230,185). The U.S. Patent and Trademark Office refused to register Gibson's marks because of U.S. Trademark Registration No. 2,554,111.

Answer to Paragraph No. 2

With respect to the allegations of Paragraph No. 2, based on information and belief, Registrant admits that Petitioner filed trademark applications to register "ex" and "exp". Registrant is without knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore denies the same.

3. Registrant's date of first use of the mark EXP COATED in connection with string for musical instruments is January 22, 2001 and has a priority date of December 8, 2000. Gibson used the EX and EXP marks in interstate commerce prior to December 8, 2000. Therefore, Gibson's use of EX and EXP has priority over Registrant's use of EXP COATED.

Answer to Paragraph No. 3

With respect to the allegations of Paragraph No. 3, Registrant admits that its date of first use of the mark EXP COATED in connection with strings for musical instruments is at least as early as January 22, 2001 and the application which resulted in the registration of the mark EXP COATED was filed on December 8, 2000. Registrant is without knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore denies the same.

4. Registrant's mark EXP COATED means, according to Registrant, a coating that provides extended play. Therefore, EXP COATING has a specific meaning when applied to the goods. Therefore, Registrant's mark is merely descriptive when applied to the goods. Therefore, Registrant's registration was improperly granted.

Answer to Paragraph No. 4

Registrant denies the allegations of Paragraph No. 4.

5. According to the records of the U.S. Patent and Trademark Office, someone, probably the Registrant, told the Patent and Trademark Office that EXP COATED meant "expired coated". If made by Registrant, such a representative amounts to fraud of the Trademark Office given that EXP COATED means, according to Registrant, a coating that provides extended play.

Answer to Paragraph No. 5

Registrant denies the allegations of Paragraph No. 5.

6. Petitioner is harmed and/or will be harmed by U.S. Registration No. 2,554,111.

Answer to Paragraph No. 6

Registrant denies the allegations of Paragraph No. 6.

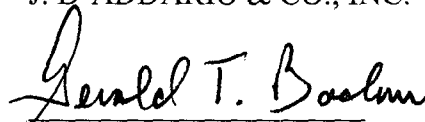
WHEREFORE, the Registrant, J. D'ADDARIO & CO., INC., prays that this Petition to Cancel be denied and that Petitioner's application serial nos. 76/230,198 and 76/230,185 not be passed to registration.

Respectfully submitted,

J. D'ADDARIO & CO., INC.

Date: December 26, 2002

By:



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Attorneys for Registrant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,

Opposer,

INTERNATIONAL LEARNING
TRUST, d/b/a INCOME BUILDERS
INTERNATIONAL,

Applicant.


Opposition No.: 123,858

Application Serial No.: 75/926347

Published: May 15, 2001

Mark: MULTIPLE INCOME TECHNOLOGY
(MIT)

Assistant Commissioner of Trademarks
Trademark Trial and Appeal Board
Box: TTAB NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513


12-24-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #33

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

The Applicant having filed a Notice of Express Abandonment for the above-referenced mark MULTIPLE INCOME TECHNOLOGY (MIT), Serial No. 75/926347, the parties to this action hereby file this Stipulation of Dismissal without Prejudice, with rights of appeal waived, and with no costs or attorneys' fees to be awarded to any party.

Respectfully submitted,

**Massachusetts Institute
of Technology**



Jason C. Kravitz, Esq.
Elizabeth Plitzuweit, Esq.
Nixon Peabody LLP
101 Federal Street
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Respectfully submitted,

**International Learning
Trust**



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December 23, 2002

Express Mail Label: EL934997240US

Date of Deposit: December 23, 2002

Assistant Commissioner for Trademarks
Trademark Trial and Appeal Board
Box TTAB - NO FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513



12-24-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #33

Re: Massachusetts Institute of Technology, Opposer v. International Learning
Trust, d/b/a Income Builders International, Applicant
Opposition No. 123,858
Serial No. 75/926347

Dear Sir or Madam:

Enclosed for filing in the above captioned opposition is a Stipulation of Dismissal without Prejudice, executed by the parties.

Kindly acknowledge receipt of this letter and its enclosures by date stamping the enclosed postage prepaid postcard and returning it to this office.

If you have any questions or require additional information, please contact me at the number listed above. Thank you for your attention.

Very truly yours,

Elizabeth Plitzuweit

Enclosures

cc: Maria Crimi Speth, Esq.